

Applicants: Rosen et al.
Serial No.: 10/749,109
Filing Date: December 29, 2003
Docket No.: 1209-4
Page 8

REMARKS

The application has been amended. The specification has been amended. Claims 1, 10 and 13-16 have been amended. Claim 6 has been canceled. Reconsideration is respectfully requested.

The Examiner has objected to the specification noting that in the Brief of Description of the Drawings, a description of Figures 2a and 2b is missing. In response thereto, the specification has been amended to correct this informality.

Claims 13-17 are objected to under 37 C.F.R. §1.75(c) as being of improper dependent form. Claims 13-16 have been amended to now depend from independent claim 1. Thus, this objection is believed to be overcome.

Claims 1-17 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,577,946 to Myr. Additionally, claims 1-17 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,150,961 to Alewine et al. (hereinafter “Alewine”). In view of the claim amendments presented herewith, this determination is respectfully traversed.

Claims 1 and 10 have been amended to more clearly recite that a determination of the location of vehicles at various times on selected routes is determined only if the total number of

Applicants: Rosen et al.
Serial No.: 10/749,109
Filing Date: December 29, 2003
Docket No.: 1209-4
Page 9

signals received is greater than a predetermined value where that predetermined value represents a sufficient number of vehicles traveling on the selected routes. The limitation of the predetermined value representing a sufficient number of vehicles traveling on the selected routes was included in dependent claim 6 which has been canceled. The Examiner has rejected dependent claim 6 as being anticipated by each of Myr and Alewine.

With respect to the Myr reference, the Examiner contends that "determining location of vehicles at said various times on selected routes if said total number of signals is greater than a predetermined value" is disclosed in Myr with respect to columns 1, 3-4, and Figure 1 thereof.

The portions of the Myr reference referred to by the Examiner have been reviewed. The flow chart of Figure 1 fails in any respect to disclose that the location of the vehicles is determined only if the total number of signals is greater than a predetermined value. Nowhere in the flow chart is there any indication that the system will not apply to routes having an insufficient number of vehicles traveling thereon.

Moreover, columns 1, 3-4 of the Myr reference have been reviewed. Not only is there no disclosure of determining vehicle location only if the total number of signals is greater than a predetermined value, but the opposite appears to be true. Myr specifically states that it "tracks

Applicants: Rosen et al.
Serial No.: 10/749,109
Filing Date: December 29, 2003
Docket No.: 1209-4
Page 10

all in-vehicle cell phones within a given region" (column 3, lines 51-52). This not only fails to clearly disclose the limitations of claims 1 and 10, it actually teaches away.

Thus, failing to clearly disclose that vehicle location is determined only if the total number of signals is greater than a predetermined value, that value representing a sufficient number of vehicles on the selected routes, Myr as a matter of law cannot anticipate the claims of the present invention. Reconsideration is respectfully requested.

Similarly, Alewine also fails to clearly disclose determining the location of vehicles only if the total number of signals is greater than a predetermined value representing a sufficient number of vehicles traveling on the selected routes.

The Examiner refers to columns 3 and 4 of Alewine. In reviewing these portions of the reference, there is no clear disclosure therein of such a limitation relating to determining the location of the vehicles. The only mention of vehicles not being monitored is if those vehicles do not contain a mobile unit. However, there is no disclosure whatsoever in Alewine of determining the location of vehicles only if the number of signals received is greater than the predetermined value. Accordingly, Alewine cannot be anticipatory of the claims of the present invention. Reconsideration is respectfully requested.

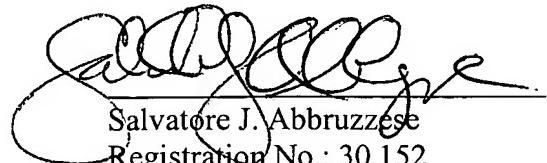
Applicants: Rosen et al.
Serial No.: 10/749,109
Filing Date: December 29, 2003
Docket No.: 1209-4
Page 11

Having overcome the Examiner's rejection of the claims based on anticipation, it is respectfully submitted that the application, including claims 1-5 and 7-17 is in condition for allowance. Favorable action thereon is respectfully solicited.

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication, or credit any overpayment, to Deposit Account No. 08-2461. Such authorization includes authorization to charge fees for extensions of time, if any, under 37 C.F.R § 1.17 and also should be treated as a constructive petition for an extension of time in this reply or any future reply pursuant to 37 C.F.R. § 1.136.

Should the Examiner wish to discuss this application in further detail, the Examiner is invited to contact Applicant's undersigned attorney by telephone at (973) 331-1700.

Respectfully submitted,



Salvatore J. Abbruzzese
Registration No.: 30,152
Attorney for Applicant(s)

HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, New York 11791
(973) 331-1700